

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**Civil No. 1:17cv131-HSO  
Criminal No. 1:03cr93-HSO-4**

**NIKIA DONYELLA BURTS**

**ORDER DENYING DEFENDANT'S MOTION [132] TO VACATE, SET ASIDE,  
OR CORRECT SENTENCE FILED PURSUANT TO 28 U.S.C. § 2255**

BEFORE THE COURT is the Motion [132] to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody, filed pursuant to 28 U.S.C. § 2255 by Defendant Nikia Donyella Burts (“Burts” or “Defendant”). Having considered the issues presented, the record, and relevant legal authority, the Court is of the opinion that Burts is not entitled to relief and that the Motion [132] should be denied without an evidentiary hearing.

Burts filed this § 2255 Motion [132] on April 28, 2017. In addition to the instant Motion [132], Burts had previously filed two other § 2255 Motions [94], [95] on March 16, 2017, in a different criminal case in this Court in which he was also a defendant, Criminal No. 1:12cr108-HSO-JMR-2. The Court notes that the instant § 2255 Motion [132] concerns the career offender enhancement assigned to Burts’ sentence in Criminal No. 1:12cr108-HSO-JMR-2 and has no applicability to Burts’ 2004 sentence in this case, Criminal No. 1:03cr93-WJG-4. The Motion [132] appears to have been filed in this case in error, as it is apparent that Burts is not

challenging his 2004 sentence but rather intended the § 2255 Motion [132] to supplement the Motions [94], [95] filed in Criminal No. 1:12cr108-HSO-JMR-2. The Court construes the § 2255 Motion [132] filed in this case as a Motion to Supplement the previously filed § 2255 Motions [94], [95] in Criminal No. 1:12cr108-HSO-JMR-2.

For the reasons stated in the Order entered on this date denying Burts' § 2255 Motions [94], [95] filed in Criminal No. 1:12cr108-HSO-JMR-2, the Court finds that the supplemental Motion [132] filed in this case should also be denied.

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that, the Motion [132] to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody and the Motion [95] for Relief under the Interests of Justice, filed pursuant to 28 U.S.C. § 2255 by Defendant Nikia Burts, is **DENIED**.

**SO ORDERED AND ADJUDGED**, this the 19<sup>th</sup> day of June, 2017.

*s/ Halil Suleyman Ozerden*  
HALIL SULEYMAN OZERDEN  
UNITED STATES DISTRICT JUDGE